

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2008-031021-001 DT

08/16/2011

HON. SHERRY K. STEPHENS

CLERK OF THE COURT  
T. Henninger  
Deputy

STATE OF ARIZONA

JUAN M MARTINEZ

v.

JODI ANN ARIAS (001)

VICTORIA ELISABETH WASHINGTON  
KIRK NURMI

CAPITAL CASE MANAGER  
VICTIM SERVICES DIV-CA-CCC

RULING

The Court has considered the Motion *in Limine* Regarding Argument Relating to Weight of Mitigation Evidence filed June 27, 2011, Defendant's Response to State's Motion Regarding Arguing Weight of Mitigation filed July 28, 2011 and the argument of counsel on August 15, 2011.

**IT IS ORDERED** granting this Motion.

A capital defendant need not prove a nexus between his proffered mitigation and the offense. *State v. Harrod*, 218 Ariz. 268, 283, ¶60, 183 P.3d 519, 534 (2008). However, the failure to establish a causal connection between the mitigation and the offense may be considered in determining the strength of that mitigation. *Id.* Thus, the State may argue that a lack of nexus means that the mitigation is not particularly relevant, or is entitled to little weight in the jury's consideration of what penalty to assess. *State v. Villalobos*, 225 Ariz. 74, ¶39, 235 P.3d 227 (2010) ("We have repeatedly held, however, that the state may fairly argue that the lack of a nexus to the crime diminishes the weight to be given alleged mitigation."). *See also*, *State v. Speer*, 221 Ariz. 449, 461, ¶63, 212 P.3d 787, 799 (2009) (although a jury may not be prevented from hearing mitigation evidence lacking a causal nexus to the crime, absence of such a nexus can be considered in evaluating the strength of that evidence).

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Attorneys are encouraged to review Supreme Court Administrative Orders 2010-117 and 2011-10 to determine their mandatory participation in eFiling through AZTurboCourt.